

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALTAGRACIA DIAZ, on behalf of
herself and all others
similarly situated,

Plaintiff,

ORDER

15-cv-4754 (JS) (GRB)

-against-

NEW PENN FINANCIAL, LLC
d/b/a SHELLPOINT MORTGAGE SERVICING,

Defendant.

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APPEARANCES

For Plaintiff: Abraham Kleinman, Esq.
Kleinman, LLC
626 RXR Plaza
Uniondale, New York 11556

Tiffany N. Hardy, Esq.
Edelman Combs Lattuner & Goodwin, LLC
20 South Clark St., Ste. 1500
Chicago, Illinois 60603

For Defendant: Joy Harmon Sperling, Esq.
Day Pitney LLP
One Jefferson Road
Parsippany, New Jersey 07054

SEYBERT, District Judge:

Pending before the Court are Plaintiff's motion for class certification (Docket Entry 5) and Plaintiff's motion to continue and enter motion for class certification (Docket Entry 7). Plaintiff's pending motions were filed simultaneously with the commencement of this action on August 14, 2015. Defendant filed letter opposition dated October 15, 2015, alleging that Plaintiff's Motion for Class Certification should be denied

without prejudice because it is premature and that Plaintiff's Motion to Continue should be denied. (Docket Entry 13.)

Plaintiff filed a premature motion for class certification to avoid having the putative class action claims mooted by a potential offer of judgment for full relief made pursuant to Federal Rule of Civil Procedure 68. (Pl.'s Mot., Docket Entry 5, ¶¶ 11-18.) For the reasons discussed in the Court's previous order in Carlin v. Davidson Fink LLP, No. 13-CV-6062, 2014 WL 4826248, at *3 (E.D.N.Y. Sept. 23, 2014), reconsidered and vacated in part, No. 13-CV-6062, 2015 WL 5794250 (E.D.N.Y. Sept. 30, 2015), Plaintiff's motion for class certification (Docket Entry 5) is DENIED WITHOUT PREJUDICE. The Motion for Class Certification may be renewed after Plaintiff obtains the facts necessary to meet her burden of establishing that the requirements set forth in Federal Rule of Civil Procedure 23 have been met. Plaintiff's motion to continue and enter motion for class certification (Docket Entry 7) is DENIED AS MOOT.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: October 23, 2015
Central Islip, New York